

# TOWN OF MAYNARD

## BY-LAWS

### CHAPTER 34

#### STORMWATER MANAGEMENT

##### **Section 1.** General Provisions

- A. Purpose. The purpose of this Stormwater Management Bylaw is to:
  1. Protect, maintain and improve the public safety, environment, health, and general welfare by preventing or diminishing stormwater impacts resulting from site development and land disturbance; and
  2. Establish a mechanism by which the Town can meet the requirements of its National Pollutant Discharge Elimination System (NPDES) general permit.
- B. Authority. This bylaw is adopted under authority granted by the Home Rule Amendment of the Massachusetts Constitution, the Home Rule Statutes, and pursuant to the rules and regulations of the Federal Clean Water Act found at 40 CFR 122.34.
- C. Compatibility with other permit and bylaw requirements. This bylaw is not intended to interfere with, abrogate or annul the Maynard Storm Drain System Bylaw or any other bylaw, rule or regulation, statute, or other provision of law. The requirements of this bylaw should be considered minimum requirements, and where any provision of this bylaw imposes restrictions different from those imposed by any other bylaw, rule or regulation, or other provision of law, whichever provisions are more restrictive or impose higher protective standards for human health or the environment shall be considered to take precedence.

##### **Section 2.** Scope and applicability

- A. Applicability. This bylaw shall be applicable to any of the following activities:
  1. Any activity that results in a land disturbance greater than 10,000 square feet.
  2. Any development project that:
    - a. Requires a special permit and/or site plan review under the Maynard Zoning Bylaw; or
    - b. Requires approval of a definitive plan under the Massachusetts Subdivision Control Law.
  3. Any activity that disturbs less than 10,000 square feet if:

- a. The activity is part of a larger common plan of alteration or development that will disturb more than 10,000 square feet; or.
- b. The new activity will result in a cumulative disturbance of more than 10,000 square feet since the effective date of this bylaw, to land that is part of a larger parcel held in common ownership or control at any time since said date. For purposes of this Section, ownership by related or jointly controlled persons or entities shall be considered common ownership. In such cases, the new activity is prohibited until either:
  1. All activities that previously disturbed land as described in this Section 2.A.(3 )(b) are brought into full compliance with the requirements and standards of this bylaw, or
  2. The application for permit under this bylaw for the new activity includes bringing the land previously disturbed into full compliance with requirements and standards of this bylaw. If the involved land is not currently in common ownership, all owners of the involved land must jointly apply for the permit.
4. Any undeveloped vacant lots, where any activity results in the alteration of drainage characteristics, including, but not limited to, construction of buildings and the creation of impervious surface.

**B. Interpretation:** In determining Applicability, the following factors shall also be adhered to:

1. A development or alteration of land shall not be segmented or phased in a manner to avoid compliance with this bylaw.
2. Alteration of the municipal separate storm sewer system (MS4): No person shall modify or remove any part of the MS4 including surface drainage or piping that crosses private property if it serves the public as part of the drainage system without prior approval of the Stormwater Authority and the Maynard Department of Public Works.

**C. Permits and Exemptions.** No person shall alter land within the Town of Maynard meeting the applicability of this bylaw without having obtained a stormwater management permit, except as follows:

1. Any work or projects for which all necessary approvals and permits have been issued before the effective date of this bylaw;
2. Normal maintenance and improvement of land in agricultural use as defined by the Wetlands Protection Act, MGL c. 131, § 40, and its implementing regulations at 310 CMR 10.04;
3. Normal maintenance of existing landscaping, gardens, or lawn areas;

4. The construction, reconstruction, or repair of any fence or wall that will not alter the existing terrain or drainage patterns;
5. Emergency repairs to any stormwater management facility or practice that poses a threat to public safety or health, or as deemed necessary by the Stormwater Authority.
6. Repair or replacement of an existing septic system.
7. Construction of utilities (gas, water, electric, telephone, etc.) other than stormwater facilities, which will not alter terrain, ground cover, or drainage patterns, provided the work is performed in compliance with the Federal Clean Water Act, NPDES requirements and other applicable federal, state and local laws.
8. Customary cemetery management within the limits of the existing improved cemetery grounds. This does not include cemetery expansion into undeveloped area.
9. Projects requiring a special permit from the Planning Board where no site changes are proposed, such as for projects that only propose to change building façade or signage.

**Section 3. Definitions.** The definitions contained herein apply to the interpretation and implementation of this bylaw. Terms not defined in this section shall be as contained in the Massachusetts Stormwater Management Regulations and Stormwater Management Handbook. Any other terms not defined in the foregoing described documents shall be construed according to their customary and usual meaning unless the context indicates a special or technical meaning. Additional definitions may be adopted by separate regulation.

**ALTER** - Any activity that will measurably change the ability of a ground surface area to absorb water or will change existing surface drainage patterns. "Alter" may be similarly represented as "alteration of drainage characteristics," and "conducting land disturbance activities."

**ALTERATION OF DRAINAGE CHARACTERISTICS** - Any activity on an area of land that changes the water quality, force, direction, timing or location of runoff flowing from the area. Such changes include: change from distributed runoff to confined, discrete discharge; change in the volume of runoff from the area; change in the peak rate of runoff from the area; and change in the recharge to groundwater on the area.

**DEVELOPMENT** - Any alteration, construction, disturbance, improvement or modification of land or structures to accommodate a use, expansion of use or redevelopment on a site.

**DISTURB** - See ALTER.

**LOW IMPACT DEVELOPMENT (LID)** – An approach to environmentally friendly land use planning and stormwater management that includes a suite of landscaping and design techniques that attempt to maintain the natural, pre-developed ability of a site to manage rainfall. LID techniques typically preserve natural drainage characteristics and/or capture

water on site, filter it through vegetation, and let it soak into the ground where it can recharge the local water table rather than becoming surface runoff.

**MASSACHUSETTS STORMWATER MANAGEMENT STANDARDS** shall mean the requirements described in the Massachusetts Stormwater Handbook as they may be amended from time to time, that address water quality (pollutants) and quantity by requiring the implementation of a wide variety of stormwater management strategies.

**MS4 PERMIT** – General Permit for Stormwater Discharges from Small Municipal Separate Storm Sewer Systems in Massachusetts

**MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4)** - A conveyance or system of conveyances designed or used for collecting, recharging, treating and / or conveying stormwater, including any road with a drainage system, street, gutter, curb, inlet, catch basin, piped storm drain, pumping facility, retention or detention basin, natural or man-made or altered drainage channel, reservoir or other drainage structures that comprise the storm drain system owned and operated by the Town of Maynard.

**NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM (NPDES)** -As authorized by the Federal Clean Water Act, the NPDES permit program controls water pollution by regulating point sources that discharge pollutants into waters of the United States.

**NEW DEVELOPMENT** – Any construction activities or land alteration resulting in total earth disturbances equal to or greater than 10,000 square feet (activities that are part of a common plan of development disturbing greater than 10,000 square feet) on an area that has not been previously developed to include impervious cover.

**OFFSITE MITIGATION** - An approach whereby pollutant removal practices are implemented at redevelopment or retrofit sites at another location, approved by the MS4, in the same watershed and achieves the same pollutant removal equivalents specified in the local stormwater bylaws or ordinances.

**PERSON** -The term PERSON as used in this bylaw shall include any individual, group of individuals, association, partnership, corporation, company, business organization, trust, estate, the Town of Maynard or agencies thereof, or any other legal entity or its legal representatives, agents or assigns.

**REDEVELOPMENT** – Any construction, land alteration, or improvement of impervious surfaces resulting in total earth disturbances equal to or greater than 10,000 square feet (or activities that are part of a larger common plan of development disturbing greater than 10,000 square feet) that does not meet the definition of new development.

**RUNOFF** -A term used to describe the water from rain, snowmelt or irrigation that flows over the land surface and is not absorbed into the ground, instead flowing into streams or other surface waters or land depressions.

**SITE** - The area or extent of construction activities, including but not limited to the creation of new impervious cover and improvement of existing impervious cover.

**STORMWATER** -Water that accumulates on land because of storms, and can include runoff from urban areas such as roads and roofs.

**STORMWATER AUTHORITY** -The Town of Maynard Conservation Commission acting pursuant to this bylaw to administer, implement and enforce this bylaw and to adopt regulations pursuant to it. Also referred in this bylaw as the Commission.

**STORMWATER MANAGEMENT** -The use of structural or nonstructural practices that are designed to reduce and control stormwater runoff pollutant loads, discharge volumes and/or peak flow discharge rates.

**STORMWATER MANAGEMENT PERMIT** -A permit issued by the Stormwater Authority, after review of an application, plans, calculations, and other supporting documents, approving a system that is designed to protect the environment of the Town from the deleterious effects of uncontrolled and untreated stormwater runoff.

**UNDEVELOPED VACANT LOT** - A parcel that has not been previously developed to include buildings and/or impervious surface.

#### **Section 4. Administration.**

- A. **The Stormwater Authority.** The Conservation Commission shall be the permit granting authority for the issuance of a stormwater management permit and shall administer, implement and enforce this bylaw. Such permit applications shall be submitted, considered and issued only in accordance with the provisions of this bylaw and regulations adopted pursuant to this bylaw. Any powers granted to or duties imposed on the Commission may be delegated in writing by the Commission to its employees or agents or other municipal employees as appropriate.
- B. **Stormwater Management Regulations.** The Stormwater Authority may adopt and periodically amend rules and regulations relating to the terms, conditions, definitions, enforcement, fees (including application, clerical, inspection, or consultant fees), procedures and administration of this bylaw after conducting a public hearing to receive comments on any proposed revisions. Such hearing dates shall be advertised in a newspaper of general local circulation at least **14** days before the hearing date. After public notice and public hearing, the commission may promulgate rules and regulations to effectuate the purposes of this bylaw. Failure of the Stormwater Authority to promulgate such rules and regulations, or a legal declaration of their invalidity by a court, shall not act to suspend or invalidate the effect of this bylaw.
- C. **Stormwater Management Handbook, Massachusetts Stormwater Management Regulations, and federal MS4 Permit requirements.** Unless specifically altered by this bylaw or its regulations, the Stormwater Authority will use the latest accepted version of the Massachusetts Stormwater Management Regulations as contained in the Massachusetts Wetlands Protection Act Regulations at 310 CMR 10.05 (6)(k) and the Massachusetts Stormwater Handbook as issued by the Massachusetts Department of Environmental Protection, as these regulations and handbook may be amended from time to time, for criteria, policy, standards, stormwater systems design

and engineering, compliance documentation requirements and general information for the execution of the provisions of this bylaw. Unless specifically altered in this bylaw and its regulations, the Stormwater Authority shall presume that Stormwater management practices designed, constructed and maintained in accordance with the Massachusetts Stormwater Regulations and Stormwater Management Handbook meet the performance standards of this bylaw. For requirements that are inconsistent between the Massachusetts Stormwater Management Handbook and the federal MS4 Permit, the Stormwater Authority will enforce the more stringent of the state and federal requirements.

D. Application for Permit To file for a permit, an applicant shall submit an application to the Stormwater Authority conforming to the application requirements set forth in the regulations adopted pursuant to this bylaw.

1. A written request for a permit with a narrative describing the project and how the proposed project will meet the requirements of the bylaw and applicable regulations.
2. Plans and documentation as necessary per the Massachusetts Stormwater Management Regulations and Massachusetts Stormwater Management Handbook or the MS4 Permit Requirements, whatever is more stringent, as applicable for the scope of the project. These may include but are not limited to Existing Conditions Topographic Plan, Grading and Drainage Plan, Landscape Plan, Erosion and Sediment Control Plan, Stormwater Pollution Prevention Plan, Long Term Pollution Prevention Plan, Stormwater Systems Operation and Maintenance Plan, Stormwater Hydrologic Calculations, Soils Information and Testing Information, Stormwater System Design Calculations.
3. Plans and Documentation shall be prepared, stamped and signed by Massachusetts registered professionals in compliance with applicable Massachusetts registration laws and regulations or, where such registration is not required for the scope and discipline relative to the project, the plans and documentation may be prepared by person(s) who can demonstrate to the satisfaction of the Stormwater Authority proficiency in the field of stormwater management as appropriate to the scope of the project.
4. Application fee as required by the Regulations adopted under this bylaw.

E. Actions by the Stormwater Authority. Upon receipt of a complete application for a stormwater management permit, the Stormwater Authority shall review the application at a scheduled and duly posted public meeting within 21 days of receipt, and shall take final action within 21 days from the date of the meeting unless such time is extended by written agreement between the applicant and the Authority. The Stormwater Authority may take any of the following actions on an application for a stormwater management permit:

1. Approve the application;
2. Approve the application with conditions; and / or waivers.

- 3. Disapprove the application.

F. Waivers. The Stormwater Authority may waive strict compliance with the requirements of this bylaw or rules and regulations promulgated hereunder, if it determines that a particular requirement or requirements are unwarranted because of the size or character of the project and / or the natural conditions of the site, and where such action:

1. Is allowed by federal, state and local laws and regulations;
2. Is in the overriding public interest; and
3. Is not inconsistent with the purpose and intent of this bylaw.

Any request for a waiver of any provision(s) of this bylaw or rules and regulations shall be submitted in writing to the Stormwater Authority at the time of Application. Such requests shall clearly identify the provision(s) from which relief is sought and shall include information setting forth the reasons why, in the Applicant's opinion, the granting of such a waiver would meet the waiver criteria contained in this section.

G. Appeals. The decisions or orders of the Stormwater Authority shall be final. Further relief of a decision by the Stormwater Authority made under this bylaw shall be reviewable in the Superior Court in an action filed within 60 days thereof, in accordance with MGL c. 249, § 4.

H. Fees. The Stormwater Authority shall establish fees to cover expenses incurred by the Town in reviewing the application and monitoring permit compliance. As provided by GL Ch. 44 §53G, the Stormwater Authority may impose upon the applicant reasonable fees for the employment of outside consultants, engaged by the Stormwater Authority, for specific expert services.

## **Section 5. Enforcement**

A. Enforcement authority. The Stormwater Authority shall enforce this bylaw and resulting regulations, orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations. As an alternative to criminal prosecution or civil action, the Stormwater Authority may elect to utilize the non-criminal disposition procedure set forth in M.G.L. Ch. 40 §21D and with the following penalty:

Penalty	First Offense	-Written warning
	Each subsequent offense	-\$100

Each day that such violation continues shall constitute a separate offense.

Enforcing Person:      Conservation Agent  
                                     Conservation Commissioner  
                                     Department of Public Works Director  
                                     Police Officer

- B. **Penalties.** Any person violating this bylaw is subject to any applicable penalties or other legal enforcement action by the Town.
- C. **Remedies not exclusive.** The remedies listed in this bylaw are not exclusive of any other remedies available under any applicable federal, state or local law.

**Section 6. Severability.** If any court of competent jurisdiction declares that any section, provision, paragraph, sentence, or clause of this bylaw, or any rule or regulation promulgated hereunder, is invalid or unconstitutional, any other section, provision, sentence or clause thereof, or other rule or regulation promulgated hereunder, shall remain in full force and effect.

**Section 7. Low Impact Development.**

- A. Low Impact Development (LID) site planning and design strategies shall be implemented unless infeasible in order to reduce the discharge of Stormwater from development sites.
- B. The Stormwater Authority may promulgate LID criteria within the Stormwater Management Regulations.

**Section 8. Offsite Mitigation.**

- A. Redevelopment projects may utilize offsite mitigation within the same watershed as the redevelopment site to meet the equivalent retention or pollutant removal requirements for the redevelopment site.
- B. The Stormwater Authority may promulgate offsite mitigation criteria within the Stormwater Management Regulations.